

November 19, 2020

David J. Bradley, Clerk of Court

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

ARAEI DOOLITTLE
PASCHAL NGOZI ELEANYA

CRIMINAL NO. **4:20-cr-621**

INDICTMENT

The Grand Jury charges:

GENERAL ALLEGATIONS

I. The Fraudulent Scheme

1. Beginning in or about March 2020, and continuing through at least on or about April 14, 2020, the defendants Arael Doolittle, Paschal Ngozi Eleanya, and others known and unknown engaged in an unlawful scheme to defraud one or more buyers and potential buyers of personal protective equipment (“PPE”), including N95 filtering facepiece respirators (“N95 masks”).

II. The COVID-19 Outbreak

2. In December 2019, a novel coronavirus, SARS-CoV-2 (the “coronavirus”), was first detected in Wuhan, Hubei Province of the People’s Republic of China (“PRC”), causing outbreaks of the coronavirus disease COVID-19 that have since spread globally. On January 31, 2020, the Secretary of Health and Human Services (“HHS”) declared a national public health emergency under section 319 of the Public Health Service Act (42 U.S.C. § 247d) as a result of the spread of COVID-19 to and within the United States.

3. On March 11, 2020, the Director-General of the World Health Organization (“WHO”) characterized COVID-19 as a pandemic.

4. On March 13, 2020, the President of the United States issued a Proclamation declaring that the COVID-19 outbreak in the United States constituted a national emergency beginning on March 1, 2020.

5. On March 25, 2020, the Department of Health and Human Services (HHS) issued a Notice of Designation of Scarce Materials or Threatened Materials Subject to COVID-19 Hoarding Prevention Measures. *See* 85 F.R. 17592 (“Notice of Designation of Scarce Materials”). This notice designated certain items as “scarce materials or threatened materials” pursuant to section 102 of the Defense Production Act, 50 U.S.C. § 4512. Among the items designated as scarce or threatened materials are: N95 filtering facepiece respirators; other filtering facepiece respirators (e.g., those designated as N99, N100, R95, R99, R100, or P95, P99, P100), and others that offer protection at an N95 filtration efficiency level; PPE surgical masks; and PPE face masks, including any masks that cover the user’s nose and mouth and may or may not meet fluid barrier or filtration efficiency levels.

6. 3M’s public list price of its N95 mask, model number 1860—before and during the pandemic—was \$1.27 per mask. 3M’s public list price of its N95 mask, model number 8210—before and during the pandemic—was between \$1.02 and \$1.31. 3M did not change the prices of its N95 masks as a result of the COVID-19 outbreak.

III. The 50 Million Mask Deal

7. In or about March 2020, Eleanya and Doolittle began looking for buyers interested in purchasing large quantities of PPE as a result of the COVID-19 outbreak. On March 28, 2020, Eleanya communicated with an individual named Paul Penn by text message regarding whether

Penn knew any buyers interested in purchasing up to 30 million 3M masks. The next day, March 29, 2020, Eleanya sent Penn a text message stating that Eleanya could provide 50 million 3M N95 masks, model numbers 1860 or 8210, from Houston, Texas.

8. On or about March 30, 2020, Penn communicated with representatives of a foreign government that was interested in purchasing the 50 million N95 masks.

9. Doolittle, Eleanya, and Penn agreed on an arrangement where Penn would act as the “broker” or middle man between the sellers (Doolittle and Eleanya), and the buyer (the foreign government).

10. On March 31, 2020, Eleanya sent an offer by email to Penn for the sale of N95 masks. Eleanya offered to sell 50 million “3M N95 model 1860/8210” at a price of \$5.50 per mask, plus a recurring supply of 10 million to 20 million masks per week, “dependent on buyer’s needs. [*sic*] and available quantity from seller”. The offer identified the seller as “END SELLER VIA PASCHAL ELEANYA”.

11. Later that same day, March 31, 2020, Individual-1 sent an email to Eleanya that contained a purchase order for the 50 million N95 masks. Individual-1 was working on the transaction as an associate of Penn. In addition, throughout the negotiations, Individual-1 falsely represented herself to the foreign government’s representatives that she was an attorney, when in truth and fact Individual-1 had no active license to practice law. The purchase order that Individual-1 sent to Eleanya was for the purchase of an “initial supply” of 50 million 3M N95 masks, model no. 1860 at a price of \$5.50 per mask, which would equal a total purchase price due to Eleanya and Doolittle of \$275 million. According to the terms of the purchase order, no money was to be released to the seller until after the buyer’s inspection team had an opportunity to inspect the product in Houston, Texas.

12. On April 1, 2020, Eleanya replied to the email described in paragraph 11 with a revised purchase order. In the revised purchase order, the buyer was required to deposit 50% of the product purchase price (\$137.5 million) to “seller’s escrow agent/attorney” before the buyer had the opportunity to inspect the product and verify its existence.

13. Later the same day, April 1, 2020, the foreign government provided a proof of funds (POF) letter from Citi Treasury & Trade Solutions confirming that the foreign government had sufficient funds to cover the purchase of the N95 masks on deposit in New York in the amount of \$317,589,761.04. This letter was forwarded by Individual-1 to Eleanya by email. Eleanya forwarded the letter to Doolittle in an email with the subject “POF for 50 million N95 masks”. This amount of over \$317 million was the amount necessary to cover the price of \$275 million charged by Eleanya and Doolittle, plus additional fees and mark-ups charged by Penn, as the “broker,” and the buyer’s representatives.

14. After the foreign government provided the proof of funds, Penn spoke to Eleanya by telephone. During this phone call, Eleanya put Doolittle on the phone as well. Eleanya and Doolittle told Penn that the foreign government needed to deposit 50% of the purchase price (\$137.5 million) into Eleanya and Doolittle’s escrow account before the foreign government would be allowed to inspect the 50 million N95 masks that Eleanya and Doolittle claimed to possess. Penn told Eleanya and Doolittle that the foreign government would not transfer any funds until they had an opportunity to inspect the product. Eleanya and Doolittle told Penn that the 50 million N95 masks were in different locations and it would cost a lot of money to transfer all of the masks to one location for an inspection. Penn suggested the foreign government or its representatives could transfer \$100,000 into an escrow account, and, if the deal fell through, Eleanya and Doolittle

could keep the \$100,000 to cover the relocation expenses. Eleanya and Doolittle agreed to this arrangement.

15. On April 2, 2020, Eleanya sent an email to Penn with subject “Proof of products March, 31st”. The purpose of the email was to provide proof that Eleanya and his associates had possession of the masks. Attached to the email was a video named “3M face mask factory for Mr. Fullerton - Copy.mp4”. The video shows boxes labeled “3M” stacked on pallets. One of the boxes is open and several 3M N95 model 1860 masks are displayed. Based on the lot number visible on the masks, the masks depicted in the video were manufactured by 3M in 2006 and would have exceeded their shelf life (i.e., expiration date) in approximately 2011. This video had been sent to Eleanya from Doolittle by email on March 31, 2020.

16. On or about April 3, 2020, a representative of the foreign government was going to wire the \$100,000 into the escrow account arranged by Individual-1 to cover Eleanya and Doolittle’s “relocation expenses” for the 50 million N95 masks. However, before the wire transfer was completed, the U.S. Secret Service intervened, and the deal was terminated.

IV. Manner and Means of the Conspiracy

17. The manner and means used by the defendants to further the scheme and artifice to defraud included, among others:

18. Falsely claiming to possess large quantities of personal protective equipment, including N95 masks, available for sale that the defendants did not in fact possess.

19. Taking advantage of the increased demand for personal protective equipment caused by the COVID-19 pandemic to charge prices that exceeded prevailing market prices in order to defraud their victims out of more money.

V. Overt Acts

20. In furtherance of the conspiracy, and to effect the objects of the conspiracy, the following overt acts, among others, were committed in the Southern District of Texas and elsewhere:

21. On March 29, 2020, Eleanya sent a text message to Penn at phone number XXX-XXX-7936, stating: “I just talked to seller. I can get you 50 million 8210 or 1860 3M N95 masks for FOB Houston at \$5.50. If interested, I need PO and POF today or latest tomorrow morning. Then give me code for proof of life video to be issued to you. Then we work on attorney escrow after that”.

22. On March 30, 2020, Eleanya sent the following messages to Doolittle via WhatsApp regarding the ongoing scheme:

- a. “So for the two ongoing transactions 1. 20million 1860s You are giving to me at \$6.05 initially with 5 cents coming to me. Then buyer people added 30cdnts [*sic*] to make it \$6.35. When the supplier changed, you now gave to me at \$4.90. Which leaves a difference of \$6.00 - \$4.90 = \$1.10. Of this \$1.10, we split 55cents each”
- b. “So for the 2nd transaction for 50million, you are giving to me at \$4.90”
- c. “Need to talk to you on the 50 million [foreign government] deal”
- d. “Need [*sic*] to resolve payment terms, specifically when the 50% balance payment will be due”

23. On March 31, 2020, Doolittle sent a message to Eleanya via WhatsApp regarding the ongoing scheme: “The deal works.. I am agreed”

24. On March 31, 2020, Eleanya sent an email to Penn with subject “SCO for 3M N95 1860/8210 masks”. The email contained an attachment named “SOFT OFFER FOR 3M N95 MASK 1860_8210 03_29_20.docx”. The attachment consisted of a “soft corporate offer” of 50 million “3M N95 model 1860/8210” at a price of \$5.50 per mask, plus a recurring supply of 10 million to 20 million masks per week, “dependent on buyer’s needs. [*sic*] and available quantity from seller”. The offer identified the seller as “END SELLER VIA PASCHAL ELEANYA”.

25. On March 31, 2020, Doolittle sent an email to Eleanya with subject “Fwd: proof of products March, 31st”. One of the attachments was named “3M face mask factory for Mr. Fullerton - Copy.mp4”. The video shows boxes labeled “3M” stacked on pallets. One of the boxes is open and several 3M N95 model 1860 masks are displayed. Based on the lot number visible on the masks, the masks depicted in the video were manufactured by 3M in 2006 and would have exceeded their shelf life (i.e., expiration date) in approximately 2011.

26. On April 1, 2020, Eleanya sent an email to Doolittle with the subject “POF for 50 million N95 masks.” The email contained a letter dated April 1, 2020 from Citi Treasury & Trade Solutions confirming the foreign government had an account balance of \$317,589,761.04.

27. On April 2, 2020, Eleanya sent an email to Penn with subject “Proof of products March, 31st”. The purpose of the email was to provide proof that Eleanya and his associates had possession of the masks. Attached to the email was the video described above in paragraph 25.

COUNT ONE
(Conspiracy to Commit Wire Fraud, 18 U.S.C. § 371)

28. Paragraphs 1 through 27 of this Indictment are hereby incorporated by reference as though fully set forth herein.

29. From in or about March 2020, and continuing through at least on or about April 14, 2020, in the Southern District of Texas and elsewhere, the defendants,

ARAEI DOOLITTLE, and
PASCHAL NGOZI ELEANYA,

knowingly and willfully conspired and agreed with each other, and other persons both known and unknown, to commit offenses against the United States, to wit: wire fraud, in violation of 18 U.S.C. § 1343, that is to devise and intend to devise, with intent to defraud, a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and to transmit and cause to be transmitted, by means of wire communication in interstate or foreign commerce, writings and signals for the purpose of executing the scheme and artifice, and at least one conspirator did at least one overt act to effect the object of the conspiracy, in violation of 18 U.S.C. § 371.

COUNTS TWO AND THREE
(Wire Fraud, 18 U.S.C. § 1343)

30. Paragraphs 1 through 27 of this Indictment are hereby incorporated by reference as though fully set forth herein.

31. From in or about March 2020, and continuing through at least on or about April 14, 2020, in the Southern District of Texas and elsewhere, the defendants,

ARAEI DOOLITTLE, and
PASCHAL NGOZI ELEANYA,

devised and intended to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises.

32. On or about each of the dates listed in the table below, in the Southern District of Texas, and elsewhere, the defendants, aiding and abetting each other and others, for the purpose of executing the scheme described above, did transmit and cause to be transmitted by means of wire communications in interstate or foreign commerce, the following writings and signals, as more specifically described below:

| COUNT | DATE | DESCRIPTION OF WIRE COMMUNICATION |
|-------|----------------|--|
| 2 | March 29, 2020 | Text message from Eleanya to Penn at phone number XXX-XXX-7936, stating: "I just talked to seller. I can get you 50 million 8210 or 1860 3M N95 masks for FOB Houston at \$5.50. If interested, I need PO and POF today or latest tomorrow morning. Then give me code for proof of life video to be issued to you. Then we work on attorney escrow after that" |
| 3 | April 2, 2020 | Email from Eleanya to Penn at email address drpXXX@gmail.com, with subject, "Proof of products March, 31st", which contained a video attachment "3M face mask factory for Mr. Fullerton - Copy.mp4" that purported to be proof that Eleanya and Doolittle possessed 50 million 3M N95 model 1860 masks. |

A TRUE BILL:

Original Signature on file

FOREPERSON OF THE GRAND JURY

RYAN K. PATRICK
United States Attorney



Justin R. Martin
Assistant United States Attorney